

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed January 13, 2005. At the time of the Office Action, Claims 1-3, 5-9, 11-15, 17-49, 51-55, and 57-85 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1, 3, 11, 17, 19, 36, 38-41, 47-49, 57, 63, 65, 82, and 84-85 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,434,616 issued to Urano et al. (hereinafter "*Urano*"). This rejection is respectfully traversed for the following reasons.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."² In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Independent Claims 1, 3, 38, 48, and 49 recite, in general, receiving instructions that indicate how packets received by the forwarding agent are to be processed and processing the packets according to the instructions. In contrast to these teachings, *Urano* discloses a method, the patent being entitled: A Method For Monitoring Abnormal Behavior in a Computer System. The method includes collecting log information in order to detect an event. (See *Urano*, Column 2, lines 61-67.) Throughout *Urano*, the audience is informed of the importance of logging information. For example, at one passage in the Background

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ See MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis original*)).

⁴ See MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis original*)).

Section of *Urano*, the following is disclosed: "...methods for transferring various types of computer logs over a network for monitoring on another computer have been widely used. However, most of those methods transfer all logs, increasing the network load and sometimes developing a problem especially when the amount of log data produced by the sending computers exceeds the network transfer capacity." (See Column 1, lines 13-19.) Remaining with the Background Section, *Urano* continues: "...administrators must associate log messages sent from one computer with those sent from another computer or obtain more detailed information on the logs depending upon the output log...Conventionally, log information has been written directly to non-volatile storage. Log information is also written via a network to non-volatile which is usually remote non-volatile storage." (See Column 1, lines 37-52.) The Background Section ostensibly sets up the Summary Section, which provides "It is an object of the present invention to provide a method of collecting an amount of log information enough to keep track of the status of agents without heavy processing load on both the network and the manager computer...It is still another object of the present invention to provide a method of automating the association of log information output by a plurality of computer and, depending upon the output information, the collection of more detailed information in order to reduce the load on an administrator...To achieve the above objects, the method according to the present invention concurrently monitors log information collected from a plurality of computers and integrally checks the validity and consistency of the log information to find an invalid action." (See Column 1, lines 60-22.)

How any of this disclosure from *Urano*, in any way, anticipates the teachings of any of the pending claims is unclear. Keeping track of log information or ensuring the validity of log information is simply not akin to the forwarding agent and service manager disclosed by the above-identified claims. Applicant consulted a dictionary to ascertain any other potential meanings associated with "log." According to the most relevant definition for this case, "log" is defined as: a record, as of the performance of a machine. *The American Heritage College Dictionary* 787 (3rd Ed. 1997). Applicant submits this definition to the Examiner to reveal how remote *Urano* is to the patentability of the pending claims.

Turning to the architecture of *Urano* in more detail, when one of the manager computer 104, console computer 106, and operator 105 detects an abnormal condition, the manager computer 104 collects more detailed [log] information. (See *Urano*, Column 5,

lines 37-40.) In the example offered by *Urano*, the manager computer 104 supposes that an event has occurred and collects the logs to verify it. The method purportedly reduces the load on the manager computer 104 necessary to make an analysis and minimizes network traffic. (See *Urano*, Column 6, lines 5-13.) However, nowhere in *Urano* is there any disclosure, teaching, or suggestion of receiving instructions and processing packets according to the instructions as recited in the above-identified claims. Applicant already pointed out as much in a previous response, which was a result of the Examiner's Office Action of October 3, 2002. While it is true that an instruction is provided in the system of *Urano*, that instruction is incapable of indicating how packets are to be processed. Moreover, the "instruction" disclosed by *Urano* reflects rules governing which log is important and which log should be sent to the manager computer. (See *Urano* generally at Column 4, lines 28-52.) This is not akin to receiving instructions and processing packets according to the instructions as recited in the above-identified claims. For at least this reason, these claims are patentable over *Urano*. Additionally, Claims 11, 17, 19, and 36 depend from Independent Claim 3 and are therefore also allowable over *Urano*. Also, Claims 39, 40, 41, and 47 and Claims 57, 63, 65, and 82 depend from Independent Claims 38 and 49 respectively and are therefore also allowable over *Urano* for similar reasons. Accordingly, *Urano* does not anticipate Claims 1, 3, 11, 17, 19, 36, 38-41, 47-49, 57, 63, 65, 82, and 84-85. Notice to this effect is respectfully requested in the form of an allowance of these claims.

Urano is also deficient in other ways. For example, Applicant also notes that Independent Claim 1, as amended, recites a method for providing a network service that includes receiving packet interest instructions from a service manager at a forwarding agent, the instructions specifying packets that the forwarding agent is to communicate to the service manager; receiving an initial packet at a forwarding agent that matches one of the packets specified in the packet interest instructions from the service manager; and communicating the initial packet from the forwarding agent to the service manager so that the packet may be processed at the service manager to determine one or more actions that are to be performed for the packet, wherein the forwarding agent and the service manager are configured on a single network device such that one or more packets may be exchanged between the forwarding agent and the service manager within the network device.

By contrast *Urano* fails to offer any system in the context of the above-identified limitations that provides the forwarding agent and the service manager being configured on a single network device such that one or more packets may be exchanged between the forwarding agent and the service manager within the network device.

The Examiner has failed to cite any portion of *Urano* that offers such a disclosure. Additionally, the Examiner is unable to provide such missing disclosure, as the architecture of *Urano* cannot offer such a teaching. Accordingly, Independent Claim 1 is patentable over *Urano* for at least this reason. Additionally, Independent Claims 3, 38, 48, 49, 84, and 85 include a similar limitation and, thus, are also allowable over *Urano* for similar reasons. In addition, the corresponding dependent claims associated with these Independent Claims are also patentable over *Urano* for analogous reasons.

Section 103 Rejections

The Examiner rejects Claims 2, 5, 20, 51, 62, and 66 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,243,748 issued to Arai (hereinafter “*Arai*”). The Examiner rejects Claims 12, 34-35, 37, 58, 80-81, and 83 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,407,997 issued to DeNap et al. (hereinafter “*DeNap*”). The Examiner rejects Claims 13 and 59 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,434,616 issued to Furuichi (hereinafter “*Furuichi*”). The Examiner rejects Claims 9, 14, 55, and 60 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,065,061 issued to Blahut et al. (hereinafter “*Blahut*”). The Examiner rejects Claims 15, 43, and 61-62 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Publication No. 2002/0126622 issued to Kimball et al. (hereinafter “*Kimball*”). The Examiner rejects Claims 18 and 64 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,070,187 issued to Subramaniam et al. (hereinafter “*Subramaniam*”). The Examiner rejects Claims 21-33, 42, 44-46, and 67-79 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of U.S. Patent No. 6,172,980 issued to Flanders et al. (“*Flanders*”). The Examiner rejects Claims 7 and 53 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of *DeNap*. The Examiner rejects Claims 8 and 54 under 35 U.S.C. 103(a) as being unpatentable over *Urano* in view of *Furuichi*. These rejections are respectfully traversed for the following reasons.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.⁵ It is respectfully submitted that these rejected Claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation.

The Independent Claims have been shown to be allowable in the §102 analysis above, as they are distinguishable over *Urano*. Furthermore, these secondary references do not provide any disclosure that is combinable with *Urano* that could inhibit the patentability of the pending claims. Thus, the Examiner has failed to satisfy each of the elements of non-obviousness, which are required to support a proper §103 analysis according to MPEP §2143. Accordingly, these rejected claims are also allowable over the references cited by the Examiner based on, at least, this reason.

Therefore, all of the pending claims have been shown to be allowable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of the pending claims.

⁵ See M.P.E.P. § 2142-43.

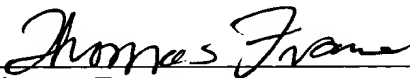
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fees are due. If this is not correct, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas Frame at 214.953.6675.

Respectfully submitted,
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